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5 Attorney for: Secured Creditor,
6 Aurora Loan Services, LLC, its assignees and/or successors
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10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SANTA ROSA DIVISION

13 In re:) Case No. 09-12584 J
14)
15 Ronald James Barbieri,) Chapter 7
16)
17)
18 Debtor.)
19) MOTION FOR RELIEF FROM
20) AUTOMATIC STAY
21)
22) Date: 12/23/09
23) Time: 9:00AM
24) Place: 99 South E Street
25) Santa Rosa, CA
26)
27)
28)
29)

24 Aurora Loan Services, LLC, its assignees and/or successors in interest ("Secured
25 Creditor" or "Movant" herein), moves this Court for an Order Terminating the Automatic Stay of
26 11 U.S.C. § 362 as to moving party (and the Trustee under the Deed of Trust securing moving
27 party's claim) so that moving party and its Trustee may commence and continue all acts
28
29

1 necessary to foreclose under the Deed of Trust secured by the Debtor's property, commonly
2 known as 3182 Bartram Circle, Clearlake, CA 95422, ("Property" herein).

3 The current value of the Debtor's subject Property is \$175,000.00 based upon the Debtor's
4 own value as set forth in **Exhibit "2"**. Other than Secured Creditor's Deed of Trust, the Debtor's
5 subject Property is also encumbered by a Second Deed of Trust in favor of Quantum Servicing
6 Corporation in the approximate amount of \$34,000.00 as set forth in Debtor's Schedule D. **See**
7 **Exhibit "3"**.

8 In the present case, the Debtor has no equity in the Property, as evidenced by the
9 approximate market value compared to the total liens against the Property, principally that of
10 Secured Creditor herein and the other liens as noted in this Motion.

12	Value	\$	175,000.00
13	Total Liens to Secured Creditor	\$	337,404.51
14	Junior Liens	\$	34,000.00
	Equity	\$	(196,404.51)

16 Further, Debtor intends to **surrender** the subject property as set forth in Debtor's
17 Statement of Intention. **See Exhibit "4"**.

19 Based on the foregoing, Secured Creditor alleges that there is no equity in the subject
20 Property, the subject Property is not necessary for an effective reorganization, and Secured
21 Creditor is not adequately protected. Secured Creditor is not receiving regular monthly
22 payments, and is unfairly delayed from proceeding with the foreclosure of the subject Property.
23 Accordingly, relief from the automatic stay should be granted to Secured Creditor pursuant to
24 11 U.S.C. § 362(d)(1) and (2).

25 WHEREFORE, Secured Creditor prays for judgment as follows:

26 1. For an Order granting relief from the automatic stay, permitting Secured Creditor to
27 proceed with the foreclosure under Secured Creditor's Deed of Trust, and to sell the
28 subject Property at a trustee's sale under the terms of the Deed of Trust to proceed

1 with any and all post foreclosure sale remedies, including the unlawful detainer action
2 or any other action necessary to obtain possession of the Property.

3 2. For an Order that the ten day stay described by Bankruptcy Rule 4001(a)(3) be
4 waived.

5 3. For an Order modifying the automatic stay to protect Secured Creditor's interest, as
6 the Court deems proper.

7 4. For attorneys' fees and costs incurred herein.

8 5. For such other relief as the Court deems proper.

9 6. The Moving Party, at its option, may offer, provide and enter into any potential
10 forbearance agreement, loan modification, refinance agreement or other loan
11 workout/loss mitigation agreement as allowed by state law. The Movant may contact
12 the Debtor via telephone or written correspondence to offer such an agreement. Any
13 such agreement shall be non-recourse unless included in a reaffirmation agreement.

14 Dated: November 24, 2009

McCarthy & Holthus, LLP

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16 By: /s/ Kristin A. Zilberstein
17 Kristin A. Zilberstein, Esq.
18 Attorneys for Secured Creditor
19 Aurora Loan Services, LLC
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